

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

VINCENT MURRAY

v.

CA 10-355 ML

ASHBEL T. WALL

MEMORANDUM AND ORDER

This matter is before the court on Petitioner's objection to the Report and Recommendation issued by Magistrate Judge Almond on February 25, 2011 (Docket #6). As an initial matter, the Court notes that Petitioner's objection is filed out of time, thus constituting a waiver of Petitioner's right to review by the District Court.

Additionally, notwithstanding, Petitioner's failure to timely file his objection, the Court, having reviewed his submission, finds that he has failed to address the procedural deficiencies in his petition that were identified in the Report and Recommendation, i.e., Plaintiff's claims remain "unexhausted" and/or his petition is a "second or successive petition."

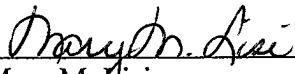
Accordingly, this Court adopts the Report and Recommendation in its entirety. The petition is DISMISSED for failure to comply with Fed. R. Civ. P. 72(b) and pursuant to 28 U.S.C. § 2254(b)(1)(A) and 28 U.S. C. § 2244(b)(1).

Pursuant to Rule 11(a) of the Rules Governing § 2254 Proceedings in the United States District Courts (§ 2254 Rules), this Court hereby finds that this case is not appropriate for the issuance of a certificate of appealability (COA) because the Petitioner has failed to make a substantial showing of the denial of a constitutional right as to any claim, as required by

28 U.S.C. § 2253(c)(2).

The Petitioner is advised that any motion to reconsider this ruling will not extend the time to file a notice of appeal in this matter. See § 2254 Rule 11(a).

SO ORDERED:



Mary M. Lisi
Chief United States District Judge
April 15, 2011